



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG-2012-0024]

RIN 1625-AA00

Safety Zone; NOBLE DISCOVERER, Outer Continental Shelf
Drillship, Chukchi and Beaufort Seas, Alaska

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a 500-meter safety zone around the DRILLSHIP NOBLE DISCOVERER, while anchored or deploying and recovering moorings on location in order to drill exploratory wells at various prospects located in the Chukchi and Beaufort Seas Outer Continental Shelf, Alaska, from 12:01 a.m. on July 1, 2012 through 11:59 p.m. on October 31, 2012. See TABLE 1. The purpose of the temporary safety zone is to protect the drillship from vessels operating outside the normal shipping channels and fairways. Placing a safety zone around the drillship will significantly reduce the threat of allisions, which could result in oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. Lawful demonstrations may be conducted outside of the safety zone.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0024 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LT Jason Smilie, Seventeenth Coast Guard District (dpi); telephone 907-463-2809, Jason.A.Smilie@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0024), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2012-0024" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box, insert USCG-2012-0024 and click "Search." Click the "open Docket Folder" in the "Actions" column.

You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the Federal Register (73 FR 3316).

Public Meeting

The Coast Guard does not plan to hold a public meeting. But you may submit a request for one by using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

The Coast Guard proposes the establishment of a temporary safety zone around the DRILLSHIP NOBLE DISCOVERER while anchored or deploying and recovering moorings on location in order to drill exploratory wells in several prospects located in the Chukchi and Beaufort Seas during the 2012 drilling season.

The request for the temporary safety zone was made by Shell Exploration & Production Company due to safety concerns for both

the personnel aboard the NOBLE DISCOVERER and the environment. Shell Exploration & Production Company indicated that it is highly likely that any allision or inability to identify, monitor or mitigate any risks or threats, including ice-related hazards that might be encountered, would result in a catastrophic event. Incursions into the safety zone by unapproved vessels could degrade the ability to monitor and mitigate such risks. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to: (1) The level of shipping activity around the operation; (2) safety concerns for personnel aboard the vessel; (3) concerns for the environment given the sensitivity of the environmental and subsistence importance to the indigenous population; (4) the lack of any established shipping fairways, fueling and supply storage/operations, and size of the crew increase the likelihood that an allision would result in a catastrophic event; (5) the recent and potential future maritime traffic in the vicinity of the proposed areas; (6) the types of vessels navigating in the vicinity of the proposed area; (7) the structural configuration of the vessel, and (8) the need to allow for lawful demonstrations without endangering the safe operation of the rig. For any group intending to conduct lawful demonstrations

in the vicinity of the rig, these demonstrations must be conducted outside the safety zone.

Results from a thorough and comprehensive examination of the criteria, IMO guidelines, and existing regulations warrant the establishment of the proposed temporary safety zone. The proposed regulation would significantly reduce the threat of allusions that could result in oil spills, and releases. Furthermore, the proposed regulation would increase the safety of life, property, and the environment in the Chukchi and Beaufort Seas by prohibiting entry into the zone unless specifically authorized by the Commander, Seventeenth Coast Guard District, or a designated representative. Due to the remote location and the need to protect the environment, the Coast Guard may use criminal sanctions to enforce the safety zone as appropriate.

The proposed temporary safety zone will be around the NOBLE DISCOVERER while anchored or deploying and recovering moorings on location in order to drill exploratory wells in various locations in the Chukchi and Beaufort Seas Outer Continental Shelf, Alaska during the 2012 timeframe.

Shell Exploration & Production Company has ten proposed drill sites within the Burger, Suvulliq and Torpedo prospects, Beaufort Sea, Alaska (See Table 1).

Table 1: Prospect Locations

Prospect	Well	Area	Block	Lease Number	Latitude	Longitude
Burger	A	Posey	6764	OCS-Y-2280	N71° 18' 30.92"	W163° 12' 43.17"
Burger	F	Posey	6714	OCS-Y-2267	N71° 20' 13.96"	W163° 12' 21.75"
Burger	J	Posey	6912	OCS-Y-2321	N71° 10' 24.03"	W163° 28' 18.52"
Burger	R	Posey	6812	OCS-Y-2294	N71° 16' 06.57"	W163° 30' 39.44"
Burger	S	Posey	6762	OCS-Y-2278	N71° 19' 25.79"	W163° 28' 40.84"
Burger	V	Posey	6915	OCS-Y-2324	N71° 10' 33.39"	W163° 04' 21.23"
Sivulliq	G	Flaxman Is	6658	OCS-Y 1805	N70° 23' 46.82"	W146° 01' 03.46"
Sivulliq	N	Flaxman Is	6658	OCS-Y 1805	N70° 23' 29.58"	W145° 58' 52.53"
Torpedo	H	Flaxman Is	6610	OCS-Y 1941	N70° 27' 01.62"	W145° 49' 32.07"
Torpedo	J	Flaxman Is	6559	OCS-Y 1936	N70° 28' 56.94"	W145° 53' 47.15"

During the 2012 timeframe, Shell Exploration & Production Company has proposed drilling up to two exploration wells at the identified Chukchi and Beaufort Sea prospects depending on favorable ice conditions, weather, sea state, and any other pertinent factors. Each of these drill sites will be permitted for drilling in 2012 to allow for operational flexibility in the event sea ice conditions prevent access to one of the locations. The number of actual wells that will be drilled will depend on ice conditions and the length of time available for the 2012 drilling season. The predicted "average" drilling season, constrained by prevailing ice conditions and regulatory restrictions, is long enough for two to three typical exploration wells to be drilled.

The actual order of drilling activities will be controlled by an interplay between actual ice conditions immediately prior to a rig move, ice forecasts, any regulatory restrictions with respect to the dates of allowed operating windows, whether the

planned drilling activity involves only drilling the shallow non-objective section or penetrating potential hydrocarbon zones, the availability of permitted sites having approved shallow hazards clearance, the anticipated duration of each contemplated drilling activity, the results of preceding wells and Marine Mammal Monitoring and Mitigation plan requirements.

All planned exploration drilling in the identified lease blocks will be conducted with the NOBLE DISCOVERER. The NOBLE DISCOVERER is a true drillship, and is a large self-contained drilling vessel that offers full accommodations for up to 124 persons. The hull has been reinforced for ice resistance.

The NOBLE DISCOVERER has a "persons on board" capacity of 124, and it is expected to be at capacity for most of its operating period. The NOBLE DISCOVERER's personnel will include its crew, as well as Shell employees, third party contractors, Alaska Native Marine Mammal Observers and possibly Bureau of Ocean Energy Management (BOEM) or Bureau of Safety and Environmental Enforcement (BSEE) personnel.

While conducting exploration drilling operations, the NOBLE DISCOVERER will be anchored. The NOBLE DISCOVERER uses an anchoring system consisting of an 8-point anchored mooring spread attached to the onboard turret and could have a maximum anchor radius of 3,600 ft (1,100 m). The anchor spread, which radiates from the center of the NOBLE DISCOVERER, may pose a

fouling hazard to any vessel attempting to anchor within the anchor spread. Fouling of the NOBLE DISCOVERER anchor lines may endanger the drillship, its 124 persons onboard the third party vessel, persons onboard the third party vessel and the environment.

The center point of the NOBLE DISCOVERER will be positioned within the prospect location in the Beaufort Sea at the coordinates listed below (See Table 1).

The NOBLE DISCOVERER will move into the Chukchi or Beaufort Sea on or about July 1, 2012 and onto a prospect location when ice allows. Drilling will be curtailed on or before October 31, 2012. The drillship and support vessels will depart the Beaufort Sea at the conclusion of the 2012 drilling season.

Discussion of Proposed Rule

The proposed temporary safety zone would encompass the area within 500 meters from each point on the outer edge of the NOBLE DISCOVERER while anchored on location in order to drill exploratory wells or deploying and recovering moorings on location in order to drill exploratory well. No vessel would be allowed to enter or remain in this proposed safety zone except the following: An attending vessel or a vessel authorized by the Commander, Seventeenth Coast Guard District or a designated representative. They may be contacted on VHF-FM Channel 13 or 16 or by telephone at 907-463-2000.

Regulatory Analyses

The Coast Guard developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This rule is not a significant regulatory action due to the location of the DRILLSHIP NOBLE DISCOVERER on the Outer Continental Shelf and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone without incurring additional costs.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard has considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Sivulliq and Torpedo Prospect of the Beaufort Sea, including Flaxman Island blocks 6610, 6658 and 6659, and Posey Blocks 6714, 6762, 6764, 6812, 6912, 6915 (See Table 1).

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will enforce a safety zone around a drillship facility that is in an area of the Flaxman Island of the Beaufort Sea not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Jason Smilie, Coast Guard Seventeenth District, Office of Prevention; telephone 907-463-2809, Jason.A.Smilie@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We

have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental

Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

The Coast Guard analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis

checklist supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 147 as follows:

PART 147--SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

2. Add § 147.T17-0024 to read as follows:

§ 147.T17-0024 Safety Zone; NOBLE DISCOVERER, Outer Continental Shelf Drillship, Chukchi and Beaufort Seas, Alaska.

- (a) Description. The NOBLE DISCOVERER will be engaged in exploratory drilling operations at various locations in the Chukchi and Beaufort Seas from July 1, 2012 through October 31, 2012. The DRILLSHIP will be anchored while conducting exploratory drilling operations with the center point of the vessel located at the coordinates listed in Table 1. These coordinates are based upon [NAD 83] UTM Zone 3. The area within 500 meters

(1,640.4 feet) from each point on the outer edge of the vessel while anchored on location is a safety zone.

Lawful demonstrations may be conducted outside of the safety zone.

Table 1: Prospect Locations

Prospect	Well	Area	Block	Lease Number	Latitude	Longitude
Burger	A	Posey	6764	OCS-Y-2280	N71° 18' 30.92"	W163° 12' 43.17"
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Torpedo	J	Flaxman Is	6559	OCS-Y 1936	N70° 28' 56.94"	W145° 53' 47.15"

(b) Regulation. No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel; or

(2) A vessel authorized by the Commander, Seventeenth Coast Guard District, or a designated representative.

(c) Penalties. Violation of this regulation may result in criminal or civil penalties, or both.

Dated: February 2, 2012

Thomas P. Ostebo,
Rear Admiral, U.S. Coast Guard,
Commander, Seventeenth Coast Guard District.

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